

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion into Competition for
Local Exchange Service.

Rulemaking 95-04-043
(Filed April 26, 1995)

Order Instituting Investigation on the
Commission's Own Motion into Competition for
Local Exchange Service.

Investigation 95-04-044
(Filed April 26, 1995)

**ADMINISTRATIVE LAW JUDGE'S RULING
SOLICITING FURTHER COMMENTS
ON 310 OVERLAY PUBLIC EDUCATION PROGRAM**

This ruling solicits further comments to develop an adequate record as a basis to evaluate the Petition to Modify Decision (D.) 00-09-073, to replace the backup plan for the 310 area code from a geographic split to a "triggered" overlay. Before the Commission can make an informed comparison between the split and overlay options, the record must be further developed concerning the nature and extent of the required Public Education Program (PEP).

In response to the Administrative Law Judge ruling issued on March 25, 2005, Petitioners filed comments on April 18, 2005 concerning their proposal for a PEP to educate the public concerning an overlay. Petitioners' proposal, however, did not sufficiently define the level of effort involved or mechanisms to assure that the PEP would be adequately funded. Accordingly, this ruling solicits further comments to develop an adequate record on these issues.

As a reference point regarding the minimum level of activity required for the PEP, it is instructive to note the requirements that the Commission imposed when it previously adopted an overlay for the 310 and 408 area codes.

Additional Measures Previously Adopted for the 310/424 Area Code PEP

The Commission approved a PEP for the previous 310/424 overlay in D.98-12-081, and authorized the formation of a Task Force to manage implementation. The Commission required that the 310 PEP achieve a 70% level of public awareness regarding the 310 area code overlay plan. That PEP required various measures to reach this goal that were not addressed in the parties' currently proposed PEP.

In the previously approved PEP, the Commission required the use of a centralized call center to accommodate telephone inquiries regarding the overlay. The Commission also required input from focus groups to provide a benchmark for further development of PEP message content and approach. As part of the PEP, the Commission also required paid advertising about the overlay plan in zoned editions of newspaper media including those targeting ethnic communities, and potential use of radio advertising. The Commission also called for the potential use of billboard advertising to appear shortly before the opening of the overlay area code.

Additional Measures in the 408/669 PEP

The Commission subsequently adopted a PEP for the 408/669 area code overlay (which was ultimately suspended without taking effect). In the 408/669 overlay PEP, the Commission identified additional elements requiring clarification and augmentation. For example, the Commission noted that the PEP did not clearly delineate the division of responsibility between individual carriers versus the Task Force for coordinating press releases and distributing collateral

materials. Likewise, there was no tracking mechanism for implementing Speakers' Bureau activities to determine who was expected to speak to particular groups. The Commission also found that PEP deficient in not clearly specifying which ethnic or non-English-speaking groups were included in the outreach to those sectors of the public. In certain cases, the PEP also failed to identify a scheduled target date for completion of designated tasks.

Use of Professional Agency versus Volunteer Efforts

In the PEP previously attempted for the 310 overlay, volunteer effort by employees of individual carriers was sometimes challenged with much work being done by just a few. The Task Force for the 408 overlay, therefore, solicited the assistance of a professional firm to provide logistical administration for the PEP. Since the cost of this effort was unknown, the Task Force requested that any reimbursable budget adopted by the Commission for the 408 PEP identify this as a line item, with costs to be determined later. The Commission agreed to this approach.

Potential for Continuation of the PEP Beyond the Overlay Opening Date

In D.99-06-087, the Commission determined that a second-phase PEP extending beyond the opening of the overlay area code may be necessary to promote necessary public awareness regarding the fact that the 408 and 669 area codes would co-exist in the same geographic area. In the case of overlays implemented in other states, the Commission observed that some customers had expressed confusion, thinking that the overlay area code served a different geographic area, perceived as requiring a long distance toll call. The Commission noted the concern as to the competitive consequences of such a misperception should it emerge in California, since competitive local carriers would be more

likely than incumbents to serve customers with the new, less recognized overlay area code.

The Commission agreed that by focusing mainly on the change to mandatory 1+10-digit dialing patterns, and by ending the PEP before the overlay actually takes effect, public confusion could remain a problem concerning the identification of the new area code with the original area code region. With the 408 area code overlay, the Commission agreed that it may prove useful to extend the duration of the PEP beyond the opening of the overlay area code to ensure that customers are not confused as to the location of the new area code and that the rating of calls would not be affected.

Funding for the PEP

Another issue to be resolved is the funding of the PEP. Regarding the funding for the previously approved 310 and 408 PEPs, the industry costs of preparing and implementing the PEP were to be collected as a joint pool of funds from all NXX code holders in the area code, with funds to be withdrawn by individual carriers to reimburse them for prescribed PEP activities. Moreover, in D.00-12-032, the Commission denied a motion by Pacific Bell Telephone Company seeking to recover any PEP-related costs from retail customers as a “limited exogenous” factor.

For the 310 PEP, the Commission initially approved a budget of \$187,715, but later, by D.99-02-074, augmented this amount by \$120,000 to cover additional mass media advertising and by \$10,000 for collateral materials and distribution. The resulting final PEP budget was \$317,715. For the 408 overlay, the Commission approved a budget of \$340,000, covering a similar level of effort, with provision for further augmentation to cover the costs of outside professional administration of the PEP, as described above.

Further Comments for the Currently Proposed PEP

In crafting a PEP that would be appropriate for the currently proposed 310 overlay plan, further comments are solicited. Parties should address in their comments whether, or why not, the level and scope of activities and degree of detail required for these previously approved PEPs, as summarized above, should also be required here at a minimum. To the extent parties believe that an independent professional agency should be retained to manage and coordinate the PEP, they should address how long such recruitment would take, and how this provision may impact the schedule for implementation and funding of the PEP and overlay. In commenting on a budget mechanism for the currently proposed PEP, parties should use the previously adopted figures as a reference point, recognizing that are stated in nominal dollars at the time the budgets were approved.

IT IS RULED that:

1. An additional round of comments is hereby solicited on the minimum required elements of the adopted Public Education Program (PEP), assuming the Commission were to adopt an overlay as a backup plan, in view of the previously adopted requirements, as discussed above. The comments shall address both the level and scope of activities required, issues relating to the use of a professional third-party administrator, and mechanisms to assure the adequacy of funding to pay for the PEP.
2. The additional round of comments shall be due on June 15, 2005.

Dated May 31, 2005, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties for whom an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Soliciting Further Comments on 310 Overlay Public Education Program on all parties of record in this proceeding or their attorneys of record.

Dated May 31, 2005, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.